



Town of Arlington

ARLINGTON REDEVELOPMENT BOARD Report to 2024 Annual Town Meeting

Rachel Zsembery, Chair

Kin Lau, Vice Chair

Eugene Benson

Shaina Korman-Houston

Stephen Revilak

Claire V. Ricker

Secretary Ex-Officio

Director of the Department of Planning and Community Development

Voted as amended April 1, 2024

Introduction and Overview

The Arlington Redevelopment Board (ARB) has statutory authority under M.G.L. c. 40A as the Town's planning board (Section 2 of Section 17 of the Town Manager Act) and M.G.L. c. 41 § 81 as the Redevelopment Authority. The ARB was created by a Town Meeting-adopted home rule petition, followed by a State Legislature act to form the ARB in 1971. The Department of Planning and Community Development was created in 1969. The authority and role of the ARB is included in Article 17 of the Town Manager Act. As a planning board, the ARB is charged with developing Arlington's Master Plan; proposing bylaws, regulations, and rules to implement the Master Plan; and applying those bylaws, regulations, and rules as well as conducting site plan review where applicable. The Board serves as the Town's special permit granting authority for projects which require an Environmental Design Review (EDR) as identified in the Zoning Bylaw. The ARB is also the Town's Urban Renewal Authority under M.G.L. Chapter 121B; with Town Meeting approval, the Board may hold property to improve and rehabilitate them to meet community development goals.

The members of the ARB are as follows:

Rachael Zsembery, Chair (term through 6/30/2026)

Kin Lau, Vice Chair (term through 1/31/2027)

Eugene Benson (term through 1/31/2026)

Shaina Korman-Houston (term through 1/31/2026)

Stephen Revilak (Gubernatorial Designee, term through 9/22/2028)

Claire Ricker, AICP, Director of the Department of Planning and Community Development, serves as Secretary Ex-Officio to the ARB.

In November 2023, Shaina Korman-Houston was appointed to a vacant seat on the Redevelopment Board by the Select Board.

Zoning Bylaw Articles Overview

The formal ARB review process for 2024 Annual Town Meeting began in January with the close of the Warrant and will culminate after Town Meeting with a submission by the Town Clerk of any approved zoning amendments to the Attorney General.

When any warrant article proposes to amend the “Town of Arlington Zoning Bylaw,” the ARB is required to issue a report with recommendations to Town Meeting. Appearing below are articles that propose to amend the Zoning Bylaw. This report includes a brief discussion of the intent of each proposed amendment followed by a recommended vote of the ARB. The ARB’s vote constitutes its recommendation to Town Meeting. The recommendations of the ARB, and not the original warrant articles, are the actual motions that will be considered by the Town Meeting. An ARB vote of “No Action” means that Town Meeting will be asked to vote that no action be taken on the proposed warrant article.

Changes to the Zoning Bylaw text are shown beneath the recommended votes. Additions to the original Zoning Bylaw text appear as underlined text, while any deletions to the original Zoning Bylaw text appear as ~~strike through~~ text.

The ARB advertisement for the public hearings on the Warrant Articles proposed to amend the Zoning Bylaw appeared in *The Advocate and Star* as required on February 8, February 15, and February 22. In accordance with the provisions of the Arlington Zoning Bylaw and Massachusetts General Laws Chapter 40A, the ARB held public hearings and heard public comments on the proposed amendments on Monday, February 26, Monday, March 4, and Monday, March 18, 2024. The ARB voted on recommended bylaw language at their meeting on Monday, March 18, 2024. At their meeting on April 1, 2024, the ARB voted 5-0 to submit this report as amended to Town Meeting.

TABLE OF CONTENTS

Article	Zoning Bylaw Amendment	Page
Article 25	<u>Building Definitions</u>	<u>3</u>
Article 26	<u>Administrative Clarification</u>	<u>4</u>
Article 27	<u>Administrative Correction</u>	<u>5</u>
Article 28	<u>Delete Inland Wetland Overlay District</u>	<u>7</u>
Article 29	<u>Reduced Height Buffer</u>	<u>10</u>
Article 30	<u>Shaded Parking Lots</u>	<u>11</u>
Article 31	<u>Add 5-7 Winter Street to the MBTA Neighborhood District</u>	<u>13</u>
Article 32	<u>Traffic Visibility</u>	<u>15</u>
Article 33	<u>Rear Yard Setbacks in Business Districts</u>	<u>16</u>
Article 34	<u>Residential Uses</u>	<u>17</u>

SUMMARY OF RECOMMENDED VOTES OF THE REDEVELOPMENT BOARD

Article	Date of ARB Hearing (with link to ACMi Recording)	Recommendation to Town Meeting
Article 25	February 26, 2024	Favorable Action (5-0)
Article 26	February 26, 2024	Favorable Action (5-0)
Article 27	February 26, 2024	Favorable Action (5-0)
Article 28	February 26, 2024	Favorable Action (5-0)
Article 29	February 26, 2024	Favorable Action (5-0)
Article 30	March 4, 2024	Favorable Action (3-2)
Article 31	March 4, 2024 and March 18, 2024	Favorable Action (4-1)
Article 32	March 4, 2024	No Action (3-2)
Article 33	March 4, 2024	Favorable Action (5-0)
Article 34	March 4, 2024	No Action (5-0)

ARTICLE 25:

BUILDING DEFINITIONS

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 25

ZONING BYLAW AMENDMENT / BUILDING DEFINITIONS

To see if the Town will vote to amend Section 2: Definitions, in the Zoning Bylaw to amend the definitions of Building, Attached, and Building, Detached, to clear up an ambiguity between those two definitions; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

DISCUSSION

Article 25 intends to clarify the Zoning Bylaw by refining the definition of "Attached" and "Detached" buildings. The definitions of "Attached" and "Detached" buildings in the current Zoning Bylaw are not internally consistent, so some buildings do not clearly fall into either category, such as those attached by a breezeway. Moreover, the definition of an "Attached" building only includes sharing a common wall with another building while remaining silent on buildings that share a roof or other element. The Zoning Board of Appeals (ZBA) and the Inspectional Services Department (ISD), in addition to the Redevelopment Board, support this clarification. The revised definitions were written in consultation with the ZBA and ISD and are consistent with the manner in which ISD has been interpreting the Zoning Bylaw. This amendment was originally proposed by the Zoning Board of Appeals.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:

DRAFT AMENDMENT

Amend SECTION 2, Definitions, as follows:

Building, Attached: A building having any portion of one or more walls or roofs in common with another adjoining building or buildings or otherwise connected by a roof to another building or buildings.

Building, Detached: A building with no physical connection to another building. that does not meet the definition of Building, Attached.

ARTICLE 26:

ADMINISTRATIVE CLARIFICATION

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 26

ZONING BYLAW AMENDMENT / ADMINISTRATIVE CLARIFICATION

To see if the Town will vote to amend Section 5.4.2.A. R District Yard and Open Space Requirements in the Zoning Bylaw to reference an exception found elsewhere in the Zoning Bylaw; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

DISCUSSION

Article 26 is an administrative clarification to the Zoning Bylaw which updates the references to exceptions to district yard and open space requirements made in Section 5.4.2.A. This amends Section 5.4.2.A R District Yard and Open Space Requirements to add a reference to 5.9.2.B.(1).e, an exception that already exists elsewhere in the bylaw. Adding the reference to this section serves to simplify and clarify the interpretation and application of the bylaw. This amendment was originally proposed by the Zoning Board of Appeals.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:

DRAFT AMENDMENT

Amend SECTION 5.4.2.A. R District Yard and Open Space Requirements, as follows:

R District Yard and Open Space Requirements (see 5.4.2(B)B and 5.9.2.B.(1).e for exceptions).

ARTICLE 27:

ADMINISTRATIVE CORRECTION

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 27

ZONING BYLAW AMENDMENT / ADMINISTRATIVE CORRECTION

To see if the Town will vote to amend Section 5.9.2. Accessory Dwelling Units for clarity to change how subsections are numbered and to remove a subsection that is outdated; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

DISCUSSION

Article 27 is an administrative correction to the Zoning Bylaw that will change the listing of conditions in Section 5.9.2.B.(1) from bullet points to letters. The Zoning Board of Appeals originally proposed the change from a bulleted to an enumerated list in order to cite the specific provisions more simply and clearly in their decisions. Additionally, the article would delete a subsection from the bylaw that is irrelevant as the dates referenced in the subsection have passed.

The Zoning Bylaw has allowed Accessory Dwelling Units (ADUs) for several years. This article would not make any changes to the conditions under which ADUs are allowed or any other rules for ADUs; it would merely make it simpler to refer to individual provisions in Section 5.9.2.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:

DRAFT AMENDMENT

Amend Section 5.9.2. Accessory Dwelling Units, Subsection B. (1), to replace bullets with letters as follows:

B. Requirements

- (1) In any Residential District or Business District, an accessory dwelling unit is permitted as an accessory use to any single-family dwelling, two-family dwelling, or duplex dwelling, if all of the following conditions are met:
 - a) An accessory dwelling unit shall be not larger in floor area than one-half the floor area of the principal dwelling or 900 square feet, whichever is smaller. For the avoidance of doubt, where an accessory dwelling unit is created by converting a portion of an existing principal dwelling to an accessory dwelling unit, the floor area of the resulting accessory dwelling unit shall be measured relative to the floor area of the resulting principal dwelling (as affected by or in connection with the conversion).

- b) Any alteration causing an expansion of or addition to a building in connection with an accessory dwelling unit shall be subject to the provisions of Section 5.4.2.B(6) if and to extent section 5.4.2.B(6) is otherwise applicable to such alteration or addition.
- c) An accessory dwelling unit shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling, sufficient to meet the requirements of the State Building Code for safe egress.
- d) No more than one (1) accessory dwelling unit is allowed per principal dwelling unit.
- e) An accessory dwelling unit may be located in (i) the same building as the principal dwelling unit or as an expansion to such building; (ii) a building that is attached to the principal dwelling unit; or (iii) an accessory building, which accessory building shall not constitute a principal or main building by the incorporation of the accessory dwelling unit, provided that if such accessory building is located within 6 feet of a lot line then such accessory dwelling unit shall be allowed only if the Board of Appeals, acting pursuant to Section 3.3, grants a special permit upon its finding that the creation of such accessory dwelling unit is not substantially more detrimental to the neighborhood than the use of such accessory building as a private garage or other allowed use.
- f) An accessory dwelling unit shall not be used as a short-term rental, in accordance with Title V, Article 18, Section 3 of the By-Laws of the Town of Arlington.
- g) An accessory dwelling unit shall be subject to all applicable requirements of the State Building Code and State Fire Code (including any such requirements, if and as applicable, which prohibit openings, including windows, in exterior walls of dwellings located within a certain distance from the property line).

Amend Section 5.9.2, Accessory Dwelling Units, Subsection C., to delete subsection (3) and to renumber subsection (4) as subsection (3) as follows:

C. Administration

...

(3) ~~This Section 5.9.2 shall be effective as of the date on which it is enacted at Town Meeting in accordance with applicable law, except for clause (iii) of Section 5.9.2.B.(1), fifth bullet, which clause (iii) shall be effective as of the date occurring six (6) months after the date on which this Section 5.9.2 is enacted at Town Meeting.~~

(4) (3) In the event of any conflict or inconsistency between the provisions of this Section 5.9.2 or Section 8.1.3.E, on the one hand, and any other provisions of this Bylaw, the provisions of this Section 5.9.2 and Section 8.1.3.E shall govern and control.

ARTICLE 28:

DELETE INLAND WETLAND OVERLAY DISTRICT

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 28

ZONING BYLAW AMENDMENT / DELETE INLAND WETLAND OVERLAY DISTRICT

To see if the Town will vote to delete Section 5.8, Inland Wetland Overlay District, from the Zoning Bylaw and adjust the numbering of subsequent sections; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

DISCUSSION

Article 28 would eliminate the Inland Wetland Overlay District (IWD) from the Zoning Bylaw. It does not reduce protection for wetlands because wetland protection is administered by the Conservation Commission under state and town laws and regulations.

Arlington has an Inland Wetland District that pre-dates the adoption of the state Wetlands Protection Act, which is implemented by the Arlington Conservation Commission. Administering a zoned wetlands district creates conflicts or inconsistencies with the Conservation Commission's work under G.L. c. 131, § 40. Through state and Town laws and regulations, the Conservation Commission retains robust authority to protect wetlands, and it is the most appropriate body to do so. The IWD is therefore redundant and creates unnecessary complexity and potential for conflicting regulations. Indeed, inclusion of the IWD in the Arlington Zoning Bylaw has created confusion about the appropriate Town body to adjudicate issues related to wetlands and, while well intentioned, the IWD is no longer an effective tool for wetland protection in Arlington. The Conservation Commission has jurisdiction over wetlands, but the inclusion of this overlay district in the Zoning Bylaw gives the Zoning Board of Appeals overlapping and superfluous jurisdiction. Furthermore, removing the IWD from the Zoning Bylaw does not change the Conservation Commission's authority or weaken environmental protections. This article is supported by the Conservation Commission, the Zoning Board of Appeals, the Inspectional Services Department, and the Department of Planning and Community Development, in addition to the Redevelopment Board.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:

DRAFT AMENDMENT

Delete SECTION 5.8, Inland Wetland District, as follows:

5.8 INLAND WETLAND DISTRICT

5.8.1. Purpose

The purpose of Section 5.8 is to:

- A. ~~Preserve and protect the streams, water bodies, and other watercourses, including wetlands, in the Town of Arlington.~~

- B. Protect the health and safety of persons and property against the hazards of flooding and contamination.
- C. Preserve and maintain the groundwater table for potential water supply purposes.
- D. Protect the community against the detrimental use and development of lands adjoining such watercourses.
- E. Conserve the watershed areas in Arlington for the health, safety, and welfare of the public.

5.8.2. Definition

The Inland Wetland District is superimposed over any other district established by this Bylaw and includes the following areas:

- A. All lands within the elevations shown on the Wetland and Floodplain Overlay Map of the Zoning Map and designated as wetlands as defined by the Massachusetts Wetlands Protection Act, G.L. c.131 §40, and the implementing regulations, 310 CMR 10.00, as well as the Town of Arlington Bylaw for Wetlands Protection (Title V, Article 8), and the Wetland Protection Regulations (Regulations) promulgated thereunder. These include lakes, ponds and swamps.
- B. All land area along all perennial rivers, brooks, and streams as defined by the Massachusetts Wetlands Protection Act, G.L. c.131 §40, and the implementing regulations, 310 CMR 10.00, as well as the Town of Arlington Bylaw for Wetlands Protection (Title V, Article 8), and the Wetland Protection Regulations (Regulations) promulgated thereunder for a horizontal distance of 200 feet from the center line thereof are included in the Inland Wetland District.
- C. All lands designated on the zoning map as having a shallow depth to water table. These lands are the poorly and very poorly drained mineral soils, and very poorly drained soils formed in organic deposits. Poorly drained mineral soils have a water table at or near the surface for at least 7 to 9 months during the year. The water table remains at or close to the surface of very poorly drained mineral and organic soils throughout most of the year.

5.8.3. Applicability

Any proposed use to be located within the limits of the Inland Wetland District as determined by the Building Inspector under Section 3.1 of this Bylaw shall be governed by all regulations of this Section as well as all other applicable provisions of this Bylaw.

5.8.4. Permitted Uses

Municipal use, such as waterworks, pumping stations, and parks, is permitted under this section. Land in the Inland Wetland District may be used for any purpose otherwise permitted in the underlying district except that:

- A. No structure intended for human occupancy or use on a permanent basis having water and sewerage facilities and no other building, wall, dam or structure (except flagpoles, signs, and the like) intended for permanent use shall be erected, constructed, altered, enlarged, or otherwise created or moved for any purpose unless a Special Permit from the Board of Appeals or, in cases subject to Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued. However, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty, as provided in Section 8.1.8 of this Bylaw.
- B. Dumping, filling, excavating, or transferring of any earth material within the district is prohibited unless a Special Permit from the Board of Appeals or, in cases subject to

- ~~Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw became effective.~~
- C. ~~No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, agricultural uses, scenic features, or drainage improvements or any other uses unless a Special Permit from the Board of Appeals or, in cases subject to Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued.~~

5.8.5. Procedures

~~Applications for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority and G.L. c. 40A, as outlined in Section 3. Such conditions shall include, where applicable, approval by the Board of Appeals, Arlington Redevelopment Board, Conservation Commission, the Massachusetts Department of Environmental Protection, and/or the Massachusetts Department of Transportation under Chapter 131 of the General Laws, acts relating to the protection of the inland wetlands of the Commonwealth.~~

5.8.6. Development Conditions

- A. ~~For the development of land within the Inland Wetland District, the following conditions shall apply:~~
- (1) ~~A minimum of six test borings to a minimum depth of eight (8) feet shall be taken; three of which shall be within the area of the proposed structure and three within 25 feet of the outside walls of the structure, but not closer than 10 feet. A report by a soil scientist or qualified engineer shall accompany the test data.~~
 - (2) ~~The floor level of areas to be occupied by human beings as living or work space shall be four (4) feet above the seasonal high water table and not subject to periodic flooding.~~
 - (3) ~~If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.~~
 - (4) ~~Safe and adequate means of vehicular and pedestrian passage shall be provided in the event of flooding of the lot(s) or adjacent lot(s) caused by either the overspill from water bodies or high runoff.~~
- B. ~~The developer shall show that the proposed development will not endanger health and safety, including safety of gas, electricity, fuel, and other utilities from breaking, leaking, short-circuiting, grounding, igniting or electrocuting; shall not obstruct or divert flood flow; substantially reduce natural floodwater storage capacity; destroy valuable habitat for wildlife; adversely affect groundwater resources or increase storm water run-off velocity so that water levels on other land are substantially raised or the danger from flooding increased.~~

Renumber subsequent Sections as appropriate.

ARTICLE 29:

REDUCED HEIGHT BUFFER

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 29

ZONING BYLAW AMENDMENT / REDUCED HEIGHT BUFFER

To see if the Town will vote to amend Section 5.3.19. Reduced Height Buffer Area in the Zoning Bylaw to alter the height buffer requirements; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

DISCUSSION

Article 29 would reduce the height buffer distances required when two different heights are specified for the same zoning district. The current height buffer distances were set in 1975, when taller buildings were allowed by the Zoning Bylaw. Since that time, the maximum heights in the R7, PUD, and B5 districts have been reduced by 45%, 60%, and 32%, respectively, but the corresponding buffer distances have not been similarly reduced. Given that the overall height maximums have been reduced, the required height buffer distances should likewise be reduced, and this article would reduce the applicable buffer distances by 50%. Although the Redevelopment Board retains the authority to allow the higher height limit if they determine that it would not have a detrimental impact based on the criteria in Sections 3.3 and 3.4, this article would add greater clarity as to the size of the minimum buffer.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:

DRAFT AMENDMENT

Amend SECTION 5.3.19, Reduced Height Buffer Area, Subsection A, as follows:

- A. When two different maximum height limits are specified for the same zoning district in any Table of Dimensional and Density Regulations in this Section 5, the lower limit shall apply to any lot or part of a lot located in a height buffer area unless the Board of Appeals, or Arlington Redevelopment Board, as applicable, finds that the height given as the upper limit would not be detrimental to it is determined as a specific finding of a special permit that the properties in the adjacent R0, R1, R2, or OS districts, would not be adversely affected due to existing use or topographic condition due to site-specific factors and criteria established in Section 3.3.3 and Section 3.3.4. A height buffer area is defined as a lot or part of a lot which is located at a lesser distance from any land, not within a public way, in an R0, R1, R2 or OS district than the following:

Land in R0, R1, R2, OS is located	Lower height shall apply
Between northwest and northeast	Within <u>200</u> 100 feet
Easterly, between northeast and southeast, or westerly between northwest and southwest	Within <u>150</u> 75 feet
Southerly, between southeast and southwest	Within <u>100</u> 50 feet

ARTICLE 30:

SHADED PARKING LOTS

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 30

ZONING BYLAW AMENDMENT / SHADED PARKING LOTS

To see if the Town will vote to amend Section 6.1.11.D of the Zoning Bylaw to require that trees or other shade be provided in parking lots with more than 25 spaces; or take any action related thereto.

(Inserted at the request of Susan Stamps and 10 registered voters)

DISCUSSION

Article 30 would require newly developed and newly expanded parking lots of more than 25 spaces to include trees and/or solar panels in order to provide shade to portions of the parking lot. This would mitigate heat island effects and increase the tree canopy in Arlington, goals expressed in multiple Town plans and supported by the Redevelopment Board.

Currently, the Zoning Bylaw requires that parking lots with more than 25 spaces be at least 8% landscaped. The Zoning Bylaw also requires that measures be taken for parking lots in the Industrial Districts to reduce the heat given off by the parking surface, which may include trees and solar arrays. Some Board members discussed that it would make sense for larger parking lots in other districts to meet the same requirements, and that it would not be more difficult for developers to include trees within the 8% landscaping requirement. Furthermore, while the Town should also work to increase the tree canopy on public property by planting street trees, this article is a reasonable requirement for private property owners to add to the tree canopy as well.

Three members of the Board voted in favor of Article 30. One other Board member felt that this article would put too much of a burden on developers, perhaps requiring them to give up parking spaces to meet the requirements and thus making their development less economically feasible. Another Board member stated that this article was too prescriptive and rigid, given the space constraints of many sites and competing solar energy and on-site rainwater treatment requirements, among other examples. They noted that the Board and developers have worked effectively together in the past to come up with creative solutions to issues of landscaping that result in shaded areas, without the necessitation of such prescriptive and arbitrary requirements.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: Favorable Action (3-2) – that the Zoning Bylaw be and hereby is amended as follows:

DRAFT AMENDMENT

Amend SECTION 6.1.11, Parking and Loading Space Standards, Subsection D, as follows:

- D. All parking and loading areas containing over five spaces which are not inside a structure shall also be subject to the following.

(6) Parking areas providing more than 25 spaces, including parking areas expanded to provide more than 25 spaces, shall include landscaped areas in at least 8% of the total paved portion of the parking area. Minimum required landscaped setbacks and buffers at the perimeter of the parking area shall not be counted toward the landscaping requirement of this paragraph. Individual strips of landscaping shall be at least four feet wide. In addition, pavement shade in such parking lots shall be provided by one or both of the following methods (for shading requirements in Industrial Districts, see 6.1.11.F.):

- a. Install one shade tree for every eight parking spaces; such trees must be spaced so that some part of each parking space is not more than 32 feet from a tree. Tree planting areas shall be at least six feet in diameter, or in accordance with the USDA Forest Service Tree Owner's Manual standards. New trees shall be at least three inches DBH (diameter at breast height) at the time of planting and shall be selected from a large shade tree list for parking lots under this section prepared by the Tree Warden or the Tree Committee.

To the extent practicable, existing trees shall be retained and used to satisfy this section. New trees shall be maintained, including watering, by the installer or its designee in accordance with the USDA Forest Service Tree Owner's Manual standards, or other standards the Redevelopment Board may designate, for a period of no less than 36 months from the date of planting.

The Redevelopment Board or Board of Appeals, as applicable, may modify this requirement to take into account parking spaces that are currently shaded by off-property trees that are not planned for removal.

- b. Install solar panels over parking spaces allowing cars to park underneath to increase shade to a minimum of 50% of the parking lot surface. This provision is applicable to parking lots in the residential and business districts.

ARTICLE 31:

ADD 5-7 WINTER STREET TO THE MBTA NEIGHBORHOOD DISTRICT

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 31 ZONING BYLAW AMENDMENT / ADD 5-7 WINTER TO THE MBTA NEIGHBORHOOD DISTRICT

To see if the Town will vote to add the Address of 5-7 Winter St., to the Neighborhood Multi-Family (NMF) Subdistrict Parcel List. So that the Map/Table listing of all the properties in the Neighborhood Multi-Family (NMF) Subdistrict includes the following property, the additional line will read as follows:

Address	Owner	Existing Use Codes	Existing Use Description	Parcel Acres	Parcel Square Footage
5-7 Winter St.	AML Realty Trust	104	Two Family Residential	0.420	18,306

; or take any action related thereto.

(Inserted at the request of John D. Leone and 10 registered voters)

DISCUSSION

Article 31 would rezone 5-7 Winter Street to be included in the Neighborhood Multi-Family Overlay District of the MBTA Communities Overlay District. 5-7 Winter Street is currently surrounded by properties included in the Neighborhood Multi-Family Overlay District and zoned commercial properties along Mass Ave. Properties in the MBTA Communities Overlay and commercial properties on Mass Ave allow taller heights, meaning that those properties could all be redeveloped to the maximum height allowed, but that 5-7 Winter Street could not. Should the redevelopment of surrounding properties occur, the owners of 5-7 Winter Street would like to preserve their rights to redevelop as well, so as not to be surrounded by taller buildings. All Board members agreed with the substance of the rezoning.

5-7 Winter Street is on the National Register of Historic Properties, and any future redevelopment would still be subject to review by the Historical Commission. The property was originally not included in the Neighborhood Multi-Family Overlay District due to its status as an historic property on the National Register, which is consistent with the stated approach of the MBTA Communities Working Group.

One Board member expressed concerns with the notification process regarding this article. Section 1.5 of the zoning bylaw says, "When a petition for a change in the zoning map is filed, such petition shall show that copies of the petition have been sent by registered or certified mail to all owners and immediate abutters of the land referred to in the petition." That was not done by the petitioner at the time of filing the petition. Instead, such notice was given by the petitioner after the March 4 Board hearing on the article. Town Counsel expressed the opinion that the notification was enough to satisfy the requirement of the bylaw, providing that at the time the notification was made, the opportunity for public comment had not passed. Accordingly, the Chair re-opened Article 31 for public comment during the Board meeting on March 18, 2024. The petitioner argued that Section 1.5 of the zoning bylaw does not specify that the required notice is for the Redevelopment Board hearing, and that he interpreted it as requiring adequate notice for Town Meeting. The majority of Board members relied on Town

Counsel's determination that adequate notice had been given. The Board member who opposed the change stated that he favored the change but believed the notice to abutters was inconsistent with the bylaw and that reopening the comment period did not include adequate notice to the abutters.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: Favorable Action (4-1) – that the Zoning Bylaw and Zoning Map/Table be and hereby is amended as follows:

DRAFT AMENDMENT

Amend the MBTA Communities Overlay District Parcel List for the Neighborhood Multi-Family (NMF) Subdistrict as follows:

- Add a row to the Parcel List table to include the property at 5-7 Winter Street;

so that said row reads as follows:

Address	Owner	Existing Use Codes	Existing Use Description	Parcel Acres	Parcel Square Footage
5-7 Winter St.	AML Realty Trust	104	Two Family Residential	0.42025	18,306

ARTICLE 32: TRAFFIC VISIBILITY

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 32

ZONING BYLAW AMENDMENT / TRAFFIC VISIBILITY

To see if the Town will vote to amend Section 5.3.12(A) of the Town's Zoning Bylaw to permit buildings, structures or vegetation across street corners if it can be shown that they will not restrict visibility in such a way as to hinder the safe transit of a vehicle through the subject intersection; or take any action related thereto.

(Inserted at the request of Caitlin Elizabeth Monaghan and 10 registered voters)

DISCUSSION

Article 32 would allow an exception to the restrictions on the height and placement of structures including fences, vegetation, and buildings on corner lots in Section 5.3.12.A of the Zoning Bylaw, if the proposed element can be shown to not restrict visibility for drivers. Section 5.3.12.B already allows such for an exception next to driveways on non-corner lots so long as "it can be shown that the vegetation or structure will not restrict visibility as to hinder the safe entry of a vehicle from any driveway to the street." The proposed exception would allow for the placement of structures, vegetation, and buildings that are tall enough to protect children and pets. Given that Section 5.3.12.B already allows an exception to the restrictions on structures and vegetation near driveways, some Board members felt that it made sense to allow a similar exception for corner lots in Section 5.3.12.A.

Some Board members felt that allowing an exception for fences that are "transparent enough" not to restrict visibility was too vague, and a specific percentage of transparency should be included. The Board did not feel qualified to determine what percentage of transparency would make such a fence safe for visibility around corners and did not want to include a specific percentage of transparency without more information.

One Board member, at the suggestion of the Board, consulted with the Inspectional Services Department (ISD) and reported to the Board that ISD wrote that it would not support the increased height as it risked reducing visibility around corners for vehicular traffic. ISD requested that if the Board were to support Article 32, language be added indicating that the visibility would not be restricted in the future, for example, if vegetation had grown to an impermissible height or density. Several different versions of the language to be added to Section 5.3.12.A were proposed, but some Board members stated that they could not support a change that was not supported by ISD, which would be responsible for enforcing it.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: No Action (3-2) – that no action be taken on Article 32.

ARTICLE 33:

REAR YARD SETBACKS IN BUSINESS DISTRICTS

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 33

ZONING BYLAW AMENDMENT / REAR YARD SETBACKS IN BUSINESS DISTRICTS

To see if the Town will vote to amend the Zoning Bylaw Section 5.5.2, Dimensional and Density Regulations, to adjust the rear yard setback requirement for uses of four or more stories in the Business Districts; or take any action related thereto.

(Inserted at the request of Andrew S. Greenspon and 10 registered voters)

DISCUSSION

Article 33 seeks to amend the current bylaw which requires a 20-foot rear setback for a commercial property abutting a residential property for buildings up to three stories and requires a 30-foot rear setback for buildings of four or more stories. Article 33 would require a 20-foot rear setback for the first three stories and a 30-foot setback for any additional stories. The proponent argued and the Board agreed that allowing the smaller setback on lower stories may provide for more commercial space in mixed-use developments, which may make them more economically feasible to build. Because upper stories will still be subject to the larger setback, this change will not be detrimental to residential properties abutting commercial and mixed-use properties.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:

DRAFT AMENDMENT

Amend SECTION 5.5.2, Dimensional and Density Regulations, Subsection A, as follows:

A. Tables of Dimensional and Density Regulations

B District Yard and Open Space Requirements

District Use	Minimum Requirement		
	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)
...			

Note: L is the length of a wall parallel (or within 45 degrees of parallel) to lot line, measured parallel to lot line, subject to the provisions of Section 5.3.15 for buildings of uneven alignment or height. H is the height of that part of the building for which the setback or yard is to be calculated.

* 0 feet when abutting an alley or rear right-of-way of at least 10 feet of width

* 10 feet when abutting a non-residential district

* 20 feet for three or fewer stories when abutting a residential district

~~* 30 feet for four and more stories when abutting a residential district~~

* For buildings of four or more stories: 20 feet for the first three stories and 30 feet for the fourth and higher stories when abutting a residential district

* If the rear yard abuts both a residential and non-residential district, the minimum requirement for the residential district shall apply.

ARTICLE 34:

RESIDENTIAL USES

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 34

ZONING BYLAW AMENDMENT / RESIDENTIAL USES

To see if the Town will vote to amend Section 5.4 of the Town's Zoning Bylaws by changing the definitions, regulations and requirements of R0 Large Lot Single-Family Districts, R1 Single-Family Districts and R2 Two-Family Districts to permit the expansion of allowable residential uses in these districts, with the goal of diversifying the Town's housing stock; or take any action related thereto.

(Inserted at the request of John Paul Lewicke and 10 registered voters)

DISCUSSION

The proponents of Article 34 requested that this article be withdrawn or that the Redevelopment Board recommend no action.

VOTE AND RECOMMENDATION TO TOWN MEETING

VOTE: No Action (5-0) – that no action be taken on Article 34.